

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**DARLENE LUJAN, as Parent and Next Friend  
of Micah Lujan, a minor child,**

Plaintiff,

v.

**CIV NO. 03-745 JH/RLP**

**BILL MOON, *et al.*,**

Defendants.

**RECOMMENDATION**

**THIS MATTER** comes before the Court *sua sponte*. On August 11, 2005, a hearing was held regarding the fairness and adequacy of the proposed settlement of this case. The Court heard presentations by Plaintiff's counsel, Defendants' counsel, and the minor plaintiff's Guardian *Ad Litem*, Gabrielle Valdez, Esq..

This case is a suit pursuant to 42 U.S.C. §1983. Plaintiff contends that her son, then in his freshman year at Santa Fe High School, was injured by a football coach at that school when the coach tackled him as he ran away from an interrogation regarding alleged drug use. Plaintiff Micah Lujan suffered a broken femur. In addition, Plaintiff asserts that the coach delayed obtaining medical care for her son while continuing his interrogation. Defendants assert that the injury to Micah Lujan was inadvertent and deny that medical care was delayed. The injury required Plaintiff Micah Lujan to undergo three surgeries to repair his leg.

The Guardian *Ad Litem* reviewed submissions of counsel and consulted with Plaintiff Darlene Lujan, who appears in this action as her child's parent and next friend. The sum agreed upon for

settlement will be divided, with one-third going to Plaintiff's counsel for attorney's fees and a further portion going to costs associated with this action. A further portion of the recovery will be used to reimburse medical expenses. In addition, some \$16,845.92 will go to Micah Lujan's parent to reimburse them for lost wages and other expenses incurred in obtaining Micah Lujan's treatment and care. The bulk of the amount recovered, \$159,294.84, will go to Micah Lujan. Of that amount, upon the Guardian *Ad Litem's* recommendation, \$130,000.00 will be used to purchase an annuity which will provide a payment of \$590.00 per month, beginning on June 1, 2006 and running for life with twenty years guaranteed. Of the balance, funds will go to car repair and subrogation for a car accident in which Micah was involved.

The Court finds that the proposed settlement will result in a substantial sum being paid to the minor child for whom Plaintiff brought this action. Review of the file and of the pleadings, this Court finds that the sum to be paid Plaintiff's counsel is reasonable and appropriate for the nature of the case and the work performed in pursuing the action. Counsel's efforts were instrumental in obtaining a substantial settlement. Taking into account Ms. Valdez's recommendation, this Court finds that the settlement is in the best interest of the child. Given the facts of the case and the possibility of recovery, the settlement is the best provision for the minor child, Micah Lujan's, needs.

**IT IS THEREFORE RECOMMENDED** that the Court approve the terms of the settlement and enter an order dismissing this action upon its terms.

  
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DON J. SYET  
UNITED STATES MAGISTRATE JUDGE